

Congress of the United States  
House of Representatives  
Washington, DC 20515

January 4, 2023

REPLY TO:

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<https://pallone.house.gov/>

The Honorable Richard W. Spinrad, Ph.D.  
Administrator  
National Oceanic and Atmospheric Administration  
1401 Constitution Avenue NW, Room 5128  
Washington, DC 20230

Admiral Linda L. Fagan  
Commandant  
United States Coast Guard  
2703 Martin Luther King Jr. Ave. SE  
Washington, DC 20593

Dear Administrator Spinrad and Admiral Fagan,

I write to urge robust enforcement of the 2008 vessel speed rule to protect the critically endangered North Atlantic Right Whale (NARW). While the rule has had a positive impact on marine mammal conservation, compliance remains abysmal. As a result, this rule is not as effective as it could be, and scientists continue to determine vessels strikes are a major cause of whale deaths off the Jersey Shore and elsewhere along the Atlantic Coast. More must be done by your agencies to aggressively expand existing enforcement efforts to ensure compliance with the rule and deter future violators.

The Endangered Species Act and Marine Mammal Protection Act required the National Oceanic and Atmospheric Administration (NOAA) to create the vessel speed rule in 2008, which mandated all vessels 65 feet and longer to travel at a speed of ten knots or less in certain times and places to prevent the NARW from being struck and injured or killed. We have 15 years of data that shows the rule works when vessels comply. Thanks in large part to your agencies' efforts, the number of marine mammal vessel strikes has decreased since the rule's implementation in 2008. Due primarily to the lack of compliance by large vessel operators, vessel strikes stubbornly remain a top killer. Your existing monitoring, compliance, and enforcement methods must be re-examined and adapted to changing circumstances, including the shifting migration patterns of NARWs into high-traffic areas due to climate change and the Unusual Mortality Event declared in 2017.

There are close to 350 NARWs left in the world, including fewer than 70 reproductive females. At the current rate of loss, the world can afford the death of less than one individual per year from all causes of death, including natural causes, if the population is to recover.

An important facet of the rule is the mandate that large vessels do not travel faster than 10 knots within designated Seasonal Management Areas (SMAs). SMAs are determined by times of year and geographic areas where scientists have identified NARWs would be at highest risk of a vessel strike. Using publicly available data collected from large vessels' Automated Information Systems, a new study concludes that large vessel operators continue to defy the mandated SMA speed limits.<sup>1</sup> An extraordinary 84 percent of these large vessels exceeded the speed limit in all SMAs. Of the ten SMAs, the Port of New York and New Jersey had the most violations with a speed limit non-compliance rate of 86 percent on average. Up and down the Atlantic coast, commercial cargo ships represented 40 percent of all non-compliant vessels.

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<sup>1</sup> Oceana, "Go Slow, Whales Below: Vessel Strikes Continue to Threaten North Atlantic Right Whales," October 2023, [https://usa.oceana.org/wp-content/uploads/sites/4/2023/10/NARW-23-0004-NARW-Ship-Report\\_Printable-Report.pdf](https://usa.oceana.org/wp-content/uploads/sites/4/2023/10/NARW-23-0004-NARW-Ship-Report_Printable-Report.pdf)

It is particularly disturbing that foreign-flagged commercial ships and mega yachts are flouting U.S. law within our Exclusive Economic Zone. While our region serves as an important economic hub and gladly welcomes commerce and tourists from all over the world, our waters should not be a doormat to law breakers. Between 2020 and 2022, there were 2,139 non-compliant foreign vessels in the Port of New York and New Jersey. This includes many vessels flagged to adversaries such as China. It is incumbent upon your agencies not to let our competitors receive an economic advantage by traveling at speeds fatal to precious marine wildlife without any repercussion from the U.S. government. While it is possible that some of the violations fall under the rule's mariner safety exemption, I urge NOAA and the Coast Guard to enhance its monitoring, compliance, and enforcement of the 2008 rule and double down on deterrence of dangerous speeding.

I was glad to see that compliance with the existing rule was included as a priority in the new NOAA Office of Law Enforcement Priorities 2023-2027 list for the Northeast region, as well as the release of the NARW Active Seasonal Speed Zone Vessel Traffic Dashboard online. Additionally, I pushed for NOAA to receive funding from the Inflation Reduction Act (IRA) to support NARW conservation. This summer NOAA received \$82 million in IRA funds, and I fully support your decision to use \$5 million of those funds to support enforcement. I urge you to use these and any other funds to increase your interagency enforcement efforts of vessels over 65 feet, including cargo ships and foreign-flagged vessels, and augment your agency's partnership to protect our endangered species.

We know the vessel speed restriction rule works when followed. However, I urge NOAA and the Coast Guard to work together to expand existing enforcement efforts to go after the worst offenders of the 2008 rule. Scientists are hopeful that the NARW population can rebound, particularly if mothers and calves which reside silently at the surface of the water receive a chance to live and grow without being injured or killed by offending operators of large commercial ships and mega yachts. The right whale and other mammals are too important to our Atlantic ecosystem and our nation's cultural heritage to let vessels speeding their demise go without consequence.

Thank you and I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Frank Pallone, Jr." in a cursive, slightly slanted script.

FRANK PALLONE, JR.  
Member of Congress

CC:

The Honorable Brenda Mallory, Chair of the White House Council on Environmental Quality  
The Honorable Gina M. Raimondo, Secretary of the Department of Commerce  
The Honorable Alejandro N. Mayorkas, Secretary of the Department of Homeland Security